



Italy: implementation of the new cooperative compliance regime

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Legislative Decree no. 128/2015, aimed at increasing legal certainty in dealings between the tax authority and taxpayers, introduced a new cooperative compliance regime (*regime di adempimento collaborativo*)⁽¹⁾. However, the new regime could not come into force until the publication of the implementing provisions.

On 14 April 2016, the Tax Agency published Statement of Practice no. 54237 ('SOP 54237'), which introduces the implementing measures and the form to be used when applying for the regime. On 15 June 2016 the Ministry of Economy and Finance then issued a decree⁽²⁾ that implements the fast-track advance ruling application, one of the main novelties of the reformed compliance regime.

The main features of the new system, as described in SOP 54237, are summarized below.

Who is eligible for the cooperative compliance regime

The following taxpayers (whether resident or non-resident) may apply for the regime, provided they have an efficient mechanism for detecting, measuring, managing and controlling tax risks, as well as internal systems enabling clear definition of roles and responsibilities.

- Taxpayers⁽³⁾ with turnover (or income) of at least EUR10 billion⁽⁴⁾.
- Taxpayers taking part in the pilot project launched on 25 June 2013 (with turnover or income of at least EUR1 billion).
- Taxpayers who have obtained a tax ruling on substantial investments, regardless of their turnover or income (see our Tax Alert of [8 June 2016](#)).

(1) The Decree, which was enacted on 18 August 2015 via publication in Official Gazette no. 190, has been in force since 2 September 2015 (see our Tax Alert of [10 September 2015](#)).

(2) The Decree was enacted on 27 June 2016 via publication in Official Gazette no. 148.

(3) For non-resident taxpayers, the requirements must be verified in respect of their permanent establishment in Italy.

(4) Reference must be made to the highest turnover (or income) reported in the VAT returns (or financial statements) of the 3 years preceding that of the application.

SOP 54237 explains how to make these calculations, especially for corporate groups.

Main features of the system for controlling tax risks

The applicants must have an efficient mechanism for controlling tax risks, well integrated into their governance and internal control systems, so as to create a business environment that strives for tax compliance as well as tax transparency and cooperation. SOP 54237 lists certain essential features of this system (e.g. clear tax strategy, clear definition of roles and responsibilities within the organization, and effective procedures for mapping, measuring, preventing and managing tax risks). Each organization is free to choose the solutions that suit it best.

Application process

The application must be submitted via certified email to the following Tax Agency office in Rome: *Direzione Centrale Accertamento*.

The application must contain the following.

- a) The applicant's details (name of company, registered office or tax domicile, tax code and VAT number; the national contact person, other than the company, who can receive information regarding the procedure; details of the legal representative).
- b) A statement that the applicant is eligible for the regime (i.e. is large enough and has an adequate system for controlling tax risks).
- c) The signature of the applicant or its legal representative.

The application must be accompanied by certain documents, such as descriptions of the enterprise's business, tax strategy and systems for controlling tax risks, and a map of the main tax risks. Alternatively, this documentation may be submitted electronically, or by recorded delivery post or by hand, within 30 days of the application.

Within 120 days of receiving the application and/or the documents, the Tax Agency must inform the taxpayer, via registered email, whether it has been admitted to the regime. If it has, the taxpayer's name is published in a special list on the Tax Agency's website (this publicity enhances the taxpayer's reputation).

Fast-track ruling

A taxpayer that is admitted to the cooperative compliance regime can apply for a fast-track ruling when it is unsure about an issue and is concerned that its approach may be contrary to tax rules or principles. The ruling is fast because the Tax Agency must send a written answer within 45 days of the date on which it receives the application (instead of the 90 - 120 days for a standard ruling). The Ministerial Decree of 15 June 2016 provides various clarifications, also on the following aspects.

- The subject of the tax ruling application
- The application deadline
- The details that the application must contain
- Causes of inadmissibility
- How and when the Tax Agency must answer
- The effects of the answer.

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